

1 02 NCAC 61 .0112 is repealed as follows:

2

3 **02 NCAC 61 .0112 SEVERABILITY**

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5 *History Note: Authority G.S. 106-65.107;*

6 *Eff. April 1, 1984;*

7 *Transferred from 15A NCAC 18B .0212 Eff. May 1, ~~2012~~ 2012;*

8 *Repealed Eff. March 1, 2021.*



**STATE OF NORTH CAROLINA  
OFFICE OF ADMINISTRATIVE HEARINGS**

December 22, 2020

Christina Waggett  
Board of Agriculture  
**Sent via email only: [christina.waggett@ncagr.gov](mailto:christina.waggett@ncagr.gov)**

Re: Objection to Rule 02 NCAC 61 .0112

Dear Ms. Waggett:

At its December 17, 2020 meeting, the Rules Review Commission objected to the above-referenced Rule in accordance with G.S. 150B-21.10.

The Commission objected to 02 NCAC 61 .0112 for necessity and lack of statutory authority.

Please respond to this letter in accordance with the provisions of G.S. 150B-21.12. If you have any questions regarding the Commission's actions, please let me know.

Sincerely,

Amber May  
Commission Counsel

**Julian Mann, III**, Director  
Chief Administrative Law Judge

**Fred G. Morrison, Jr.**  
Senior Administrative Law Judge

**Linda T. Worth**  
Deputy Director

*An Equal Employment Opportunity Employer*

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REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 61 .0112

**DEADLINE FOR RECEIPT: Thursday, December 10, 2020**

**PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*What is the purpose of this Rule? Is it necessary?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

## RRC STAFF OPINION

*PLEASE NOTE: THIS COMMUNICATION IS EITHER 1) ONLY THE RECOMMENDATION OF AN RRC STAFF ATTORNEY AS TO ACTION THAT THE ATTORNEY BELIEVES THE COMMISSION SHOULD TAKE ON THE CITED RULE AT ITS NEXT MEETING, OR 2) AN OPINION OF THAT ATTORNEY AS TO SOME MATTER CONCERNING THAT RULE. THE AGENCY AND MEMBERS OF THE PUBLIC ARE INVITED TO SUBMIT THEIR OWN COMMENTS AND RECOMMENDATIONS (ACCORDING TO RRC RULES) TO THE COMMISSION.*

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 61 .0112

RECOMMENDED ACTION:

- ☐ Approve, but note staff's comment
- ☒ Object, based on:
  - ☒ Lack of statutory authority
  - ☐ Unclear or ambiguous
  - ☒ Unnecessary
  - ☐ Failure to comply with the APA
- ☐ Extend the period of review

COMMENT:

Staff is recommending objection to this Rule as being unnecessary and beyond the statutory authority of the agency. This Rule appears to address a legal conclusion that is appropriately addressed by the Courts.

Amber Cronk May  
Commission Counsel

02 NCAC 61 .0112 is readopted as published in 35:05 NCR 561 as follows:

**02 NCAC 61 .0112 SEVERABILITY**

If any provision of these Rules or the application thereof to any person or circumstance is held invalid, the remainder of the rules, or the application of the provision to other persons or circumstances, shall not be affected thereby.

*History Note: Authority G.S. 106-65.107;*

*Eff. April 1, 1984;*

*Transferred from 15A NCAC 18B .0212 Eff. May 1, ~~2012~~ 2012;*

*Readopted Eff. January 1, 2021.*